



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/599,987	06/23/00	FULTON R	3663-5

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QM12/0718

EXAMINER
LEWIS, W

ART UNIT	PAPER NUMBER
3731	

DATE MAILED: 7/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/599,987

Applicant(s)
Fulton

Examiner
William W. Lewis

Art Unit
3731



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Jun 23, 2000

2a) ☐ This action is **FINAL**.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-30 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-30 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

WILLIAM W. LEWIS

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DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: All of the reference numbers are not mentioned. Correction is required.
2. The drawings are objected to because in Figures 4-7, 10 and 11, there are no reference numbers. Correction is required.

Specification

3. The disclosure is objected to because of the following informalities: the applicant has failed to incorporate the drawings into the description of the invention.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claims 4-7, 21-25, 29 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claims 4-7, 21-25, 29 and 30 are indefinite for they fail to further limit the claimed invention structurally. Claims 4-7, 21-25, 29 and 30 are functional in scope.

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Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-8, 10-12, 15, 20-25, and 27-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Cragg (US Patent 5,370,653).

8. Cragg discloses a device comprising a catheter (60), a mechanical element (12), a motor (50) and a blocking element (82).

9. Claims 20-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Mische et al. (US Patent 5,279,546).

10. Mische et al. disclose a device comprising means to increase the surface area of a clot (72) and means to provide a mechanical action (76).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 9, 13, 14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragg (US Patent 5,370,653).

13. Cragg disclose the invention substantially as claimed. However, Cragg does not disclose the braided catheter, pump or manual motor controls. These elements are well established in the art. To have utilized these elements with the Cragg device would have been within the level of skill in the art since such a modification would have allowed a greater control of the fluid flow and motor speed.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to W. Lewis whose telephone number is (703) 308-0060. The examiner can normally be reached on M-F from 9:00AM to 3:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Recla, can be reached on (703) 308-1382. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

A handwritten signature in black ink, appearing to be 'WL' with a stylized flourish.

WILLIAM W. LEWIS

WL

July 13, 2001